

## **REMARKS**

Claims 23, 29-31, 34-37, 42, 47-48, 50-58, 60-62, and 67, are presented in this application, of which claims 23, 35, 50, 51, 58, and 62 are presently amended and claim 34 is canceled by the present amendment. Independent claims 23, 58, and 62 are amended to clarify the subject matter of the claims, particularly with respect to directing the cleansing fluid along the cleansing fluid path from the cleansing fluid supply located within the device housing. Support for the amendments to claims 23, 58, and 62 can be found in the original specification at least at ¶ [0063]. Claims 35, 50 and 51 are also amended to further clarify the subject matter thereof. As all amendments are fully supported by the originally-filed specification and drawings, no new matter has been introduced and all amendments should be entered at this time.

Claims 23, 29-31, 34-37, 42, 47, 48, 50-58, 60-62 and 67 were rejected under 35 U.S.C. §112. With respect to claims 23, 58, and 62, the Examiner asserted in connection with the §112, first paragraph, rejection that phrase "without having to connect the cleansing fluid supply to the dispensing line each time cleaning is needed," which was added by the previous amendment, was not supported by the original disclosure. In ¶ [0063] of the originally-filed specification, however, it is clearly stated that "it is not necessary to connect an external source of cleansing fluid (e.g., detergent) to dispenser 100 to perform the cleansing operation." Because this statement is more than enough to reasonably convey to one skilled in the relevant art that the inventors, as the time the application was filed, had possession of the claimed invention, with respect to the amended claim language, it is respectfully requested that the § 112, first paragraph, rejection be withdrawn with respect to claims 23, 58, and 62.

With respect to the various § 112, second paragraph rejections, claims 23, 58, and 62 have been amended to remove the language regarding "preparing the food product dispenser." Additionally, the "food of rood component dispensing path" has been amended to read "the dispensing path" and to include proper antecedent basis for "the dispensing line". Finally, claim 35 has been amended to further clarify the relationship between the cleansing conduit and the food delivery mechanism, and the controller and the first mechanism. Accordingly, the § 112, second paragraph rejections are believed to be overcome and should be withdrawn.

Claims 23, 29-31, 34-37, 42, 47-48, 50-58, 60-62, and 65-67 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of U.S. Patent No. 5,762,096 to Mirabile ("Mirabile") and U.S. Patent 5,329,950 to Barinas ("Barinas"). It is again respectfully

asserted that Mirabile fails to teach a number of elements disclosed in independent claim 23, as previously recited and as presently amended. Specifically, Mirabile fails to teach the steps of dispensing a food product from a dispensing mechanism from within the unit housing and conducting a cleaning operation using a cleaning fluid from a cleaning fluid supply disposed within the unit housing that is directed along a dispensing path that is also located within the same unit housing. Moreover, Mirabile fails to disclose the preparation of a food product within a dispensing mechanism disclosed within the unit housing.

Mirabile discloses a cleaning system for use with a beer dispensing system comprised of a number of distinct units. The beer dispensed is stored in a keg located in a refrigerator remote from the tap that dispenses the beer, which is typically located in a different room and, as illustrated in Mirabile, often on a different floor of a bar. The beer, of course, is already prepared at a location further remote from the bar at which it is dispensed, and Mirabile in no way suggests the possibility of cleaning the kegs, much less any portion of a dispensing device that is configured to prepare a food product. The kegs are connected to the remotely-located taps by a series of hoses, with the cleaning unit either connected to one of the lines in replacement of a keg, as disclosed in Mirabile or on the hoses, in between the keg and the tap, as disclosed in the referenced patent. Simply running fluid through the hoses does not teach or suggest the claimed method. Further, the cleaning method utilized by the arrangement of Mirabile is vastly different from the claimed method, which is conducted within a single unit. Nothing within Mirabile teaches or suggests the arrangement of a cleaning mechanism within a housing unit that also holds a food dispensing mechanism where food is prepared. Further, numerous advantages are realized by the present method, including the ability to clean the portion of the dispensing mechanism in which the food product is prepared. Additionally, the claimed method provides for greatly reduced cleaning time compared to Mirabile by greatly reducing the length of the path through which the cleaning solution must travel, which allows for more frequent cleaning.

Barinas fails to overcome the deficiencies of Mirabile because Barinas discloses a cleansing unit that can be connected to a dispensing device when cleaning of the dispensing device is needed. Barinas discloses automatic, self-contained cleaning and sanitizing equipment that includes a first liquid holding tank for a cleaning solution and a second liquid holding tank for a sanitizing solution. A cleaning line runs from the first tank and has an outlet adapted for connection to an item to be cleaned. A sanitizing line runs from the second tank and has an outlet connected directly to the item to be cleaned or the cleaning line so as to create a common

connection to the item to be cleaned. There is a first pump connected to the system for circulating the liquid from the second tank to the item to be cleaned and back to the second tank through the sanitizing return line. An ozone generator is included on the second tank or the sanitizing line for inclusion of ozone therein.

The only apparently relevant disclosure in Barinas is the recirculation of the cleaning and sanitizing fluids through the food or beverage device. However, Barinas also refers to portable equipment which can be taken from place to place, independent of the item to be cleaned. As taught by Barinas, the equipment must be connected to the item to be cleaned, such as a water cooler 7, and cleaning or sanitizing is carried out afterward. Therefore, Barinas basically teaches that one can hook up an external pump recirculation system to various equipment but fails to disclose providing a food delivery mechanism that includes a mixing bowl for preparing a food or food component, a conduit for dispensing the mixed or prepared food or food component from the bowl to an outlet along a dispensing path, a cleansing fluid supply located in the dispenser, and a cleansing fluid path that at least partially includes that portion of the food or food component dispensing path from the bowl to the outlet. And while the use of the portable equipment in Barinas would be adaptable to Mirabile's system, this combination would not result in the present invention because all of the method steps are carried out within the dispenser unit.

Because the combination of Mirabile and Barinas fails to teach or suggest the claimed method, claim 23 is respectfully asserted as being allowable. Additionally, independent claims 58 and 62 are respectfully asserted as being allowable for the same reasons discussed with respect to claim 23. It is also respectfully asserted that claims 29-31, 37-37, 42, 47, 48, and 50-57, which depend from claim 23, claims 60 and 61, which depend from claim 58 and claim 67, which depends from claim 62, are allowable at least because they depend from an allowable base claim. Accordingly, reconsideration and withdrawal of the § 103 rejection of claims 23, 29-31, 34-37, 42, 47, 48, 50-58, 60-62 and 67 are respectfully requested. With respect to claims 37, 57, 60, and 61, it is respectfully asserted that the Examiner's arguments in the Office Action regarding cleaning fluid velocity, water temperature, and duration of cleaning, are moot in view of the above arguments because these assertions fail to overcome the deficiencies of the combination of Mirabile and Barinas explained above.

Further, with respect to claim 50, the Examiner asserts that the teaching in Barinas of recirculation includes recirculation of the cleansing fluid through the same path that was just cleaned. Applicants first note that the claim has been rewritten to include the method step of

recirculating the cleansing fluid through the path that was just cleaned and respectfully assert that the claim be fully considered as such. Second, Barinas shows only circulation of the cleaning solution in a single-direction loop, wherein the cleaning solution is returned to the holding tank 9 through common return line 60 in Fig. 2 of Barinas and not back through line 31. Mirabile, which does not teach recirculation of any kind adds nothing to this disclosure of Barinas. Therefore, the references fail to teach or suggest the step of recirculating the cleansing fluid through the cleansing fluid path, as found in claim 50. Claim 50 is, accordingly, respectfully asserted as being further allowable over the cited art.

It is noted that the Examiner has characterized Applicants' previous arguments against the teachings of the cited art as not persuasive for attacking the references individually, further noting that the teaching of the prior art as a whole is what determines obviousness under § 103. Applicant respectfully asserts that the Examiner's broad application of the referenced guideline is misused. In order to explain the shortcomings of the prior art, it is necessary to discuss the shortcomings of the individual references in the present case because: 1) a plurality of references are employed in the rejection, the references themselves teaching very distinct devices and associated methods; and 2) the rejection made by the Examiner involves explanations of the prior art references, individually. By way of example, the present § 103 rejection states that Mirabile does not disclose recirculation, but that Barinas does. As Barinas does not state that recirculation should be added to Mirabile to improve Mirabile's equipment or process, there is no motivation to combine these references except using Applicants' specification as a guide. Furthermore, a number of different elements are described that are not shown in either reference. If the Examiner is to counter that the prior art as a whole is to be discussed, then it is respectfully requested, that he offer an explanation as to why the prior art as a whole teaches, suggests or otherwise renders obvious multiple elements not taught or suggested by either of the references.

### **CONCLUSION**

In light of the foregoing, all rejections have been overcome and should be withdrawn, so that a notice of allowance is respectfully requested. Should the Examiner have any questions or concerns regarding the amendments or remarks for this application, then a

telephonic interview with the undersigned is respectfully requested to discuss any such questions or concerns and to expedite the eventual allowance of this application.

Respectfully submitted,

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Date

  
Allan A. Fanucci (Reg. No. 30,256)

**WINSTON & STRAWN LLP**  
**Customer No. 28765**  
212-294-3311